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SUITE 103  
ALGONQUIN, IL 60102

In re Application of  
Nilssen :  
Application No. 08/126,706 :  
Filed: 23 September, 1993 :  
Patent No. 5,402,043 :  
Issue Date 28 March, 1995 :  
Attorney Docket No. (None) :

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**OFFICE OF PETITIONS**

NOTICE

This is a notice regarding the request for acceptance of a fee deficiency submission (properly considered under 37 C.F.R. §1.28) filed 5 December, 2005

The Office regrets the delay in addressing this matter, however, the papers were received by the attorneys in the Office of Petitions only as of this writing.

**NOTE: Petitioners always are reminded and placed on Notice that the Rules of Practice mandate that Petitioners provide both the application and patent numbers, as well as filing and issue dates, in all matters regarding this patent.**

**It remains Petitioner's responsibility to ensure that the proper fees are timely offered and accepted.**

<sup>1</sup> See: 37 C.F.R. §1.366 and MPEP §2515.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. §1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 C.F.R. §1.28 hereby is **ACCEPTED**

Inquiries regarding this application should be directed to the Technology Center and the general phone number for the Office of Petitions for status requests is (571) 272-3282. It is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2<sup>2</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

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<sup>2</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.